IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10949 of 2004

Between:
T.Komuraiah S/o Kanakaiah
Unikicherla village, Dharmasagar Mandal, Warangal District
..... PETITIONER

AND

1 The Revenue Divisional Officer Warangal, Warangal District
2 The District Collector, Warangal, Warangal District.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction moreparticularly one in the nature of writ of Certiorari calling for the records relating to the proceeding RC.No.F/86/2004 dt. 9/01/2004 issued by the Revenue Divisional Officer, Warnagal inSuspending the petitioner from the Fair Price shop Delare of Unikicherla and quash the same holding it as highly arbitrary, bad and illegal

For the Petitioner:MR.P.PRABHAKAR REDDY, Advocate

For the Respondent No.: GP FOR REVENUE

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the order of the first respondent dated 09.01.2004, under which the petitioner's authorization was suspended, pending enquiry.

2. According to the petitioner, though impugned order of suspension was passed on 09.01.2004, so far, the first respondent has not issued even a show cause notice for completion of the enquiry. Therefore, there is no justification in continuing the suspension order even though more than five months have elapsed from the date of the order of the suspension.

3. The learned counsel for the petitioner contended that as per the judgment of this Court, the enquiry sought to be conducted after suspension has to be completed within a period of three months. Failing which, the suspension of the authorization has to be revoked and the petitioner should be allowed to distribute the essential commodities. the learned counsel also contended that the charge levelled against the petitioner is also devoid of merits. According to the petitioner, no receipt or document was obtained from him as to the fact of receipt of 125 quintals of rice, which is meant for 'food for work programme'. When once the petitioner did not receive the said quantity of rice, the question of misuse by the petitioner also does not arise. Therefore, even on that ground also the said allegation is devoid of merits. Under the above circumstances, the petitioner sought to set aside the order of the suspension.

4. The learned Government Pleader on the other hand supported the order and further contended that if the petitioner is aggrieved against the said order, he ought to have gone in appeal before the Joint Collector, Warangal. As no appeal has been filed by the petitioner, the petitioner is not entitled to assail the said order in the present writ petition.

5. Heard both sides and considered the material available on record.

6. Admittedly, the petitioner's authorization was suspended on certain alleged irregularities. The said suspension was pending enquiry. Though the said order was passed on 09.01.2004, so far, the first respondent – licensing authority, did not even initiate the enquiry proceedings by issuing a show cause notice.

7. Under the above circumstances, the continuation of suspension is not proper and just. Even as per the judgment of this Court, the enquiry has to be completed within a period of three months. But, in the present case, even though more than five months have elapsed, the first respondent has no even initiated the enquiry proceedings.

8. Under the above circumstances, the impugned order of suspension is set aside and the first respondent is directed to restore the authorization to the petitioner forthwith. In the circumstances of the case, the writ petition is disposed of. This order, however, does not preclude the first respondent, if he so chooses to initiate and complete enquiry as was proposed under the impugned order.

01.07.2004
Note: Furnish CC in 3 days
B/o
Va

To

1 The Revenue Divisional Officer Warangal, Warangal District

2 The District Collector, Warangal, Warangal District.

3 Two CCs to G.P. for Revenue, High Court of A.P. Buildings, Hyderabad (OUT)

4 Two CD Copies